IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

UNITED STATES OF AMERICA §

Vs. \$ CRIMINAL ACTION 6:06CR32

CLAUDE EARL CARNES §

FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY PLEA BEFORE UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636(b), this matter has been referred by the District Judge for administration of the guilty plea and allocution under Rule 11 of the Federal Rules of Civil Procedure.

On the 26th day of April, 2006, this cause came before the undersigned United States Magistrate Judge for Guilty Plea and Allocution of the Defendant, Claude Earl Carnes, on the 5-Count Indictment filed herein charging him with violations of Title 21, United States Code, Section 841(a)(1), Title 18, United States Code, Sections 924(c), 922(g)(1) and 922(g)(3) and Title 26, United States Code, Section 5861(d). After conducting the proceeding in the form and manner prescribed by Fed.R.Crim.P. 11, the Court finds:

- a. That the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a United States Magistrate Judge subject to a final approval and imposition of sentence by the District Judge.
- b. That the Defendant pled guilty to Count 3 of the Indictment, pursuant to a plea agreement with the Government which has been filed and disclosed in open court

pursuant to Fed.R.CrimP. 11(c)(2). Count 3 of the Indictment charges the Defendant with felon in possession of a firearm, in violation of Title 18, United States Code,

Section 922(g).

c. That the Defendant is fully competent and capable of entering an informed plea, that the Defendant is aware of the nature of the charges and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an

independent basis in fact containing each of the essential elements of the offenses.

IT IS THEREFORE the recommendation of the undersigned United States Magistrate

Judge that the District Judge accept the Plea Agreement and the Guilty Plea of the Defendant, with

acceptance of the plea agreement conditional upon a review of the presentence report, and that the

Defendant, CLAUDE EARL CARNES, be finally adjudged guilty of that offense.

The United States District Clerk shall serve a copy of this proposed Findings of Fact and

Recommendation on all parties by sending a notice of electronic filing and retain the receipt of notice

of electronic filing. Within ten (10) days after receipt of the magistrate judge's report, any party may

serve and file written objections to the findings, conclusions and recommendations contained in this

report. A party's failure to file written objections to the findings, conclusions and recommendations

contained in this report within ten days after being served with a copy shall bar that party from de

novo review by the district judge of those findings, conclusions and recommendations and, except

on grounds of plain error, from appellate review of unobjected-to factual findings and legal

conclusions accepted and adopted by the district judge. Douglass v. United States Auto Ass'n., 79

F.3d 1415, 1430 (5th Cir. 1996) (en banc).

So ORDERED and SIGNED this 26 day of April, 2006.

JUDITH K. GUTHRIE

UNITED STATES MAGISTRATE JUDGE

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